

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

TIME WARNER CABLE INC.,	)	<b><u>REDACTED PUBLIC VERSION</u></b>
	)	
Plaintiff,	)	
	)	C.A. No. 06-387-KAJ
v.	)	
	)	
USA VIDEO TECHNOLOGY CORP.,	)	
	)	
Defendant.	)	
	)	

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**DECLARATION OF GLEN HARDIN IN OPPOSITION TO**  
**USA VIDEO TECHNOLOGY CORPORATION'S**  
**MOTION TO DISMISS, STAY OR TRANSFER**

I, Glen Hardin, hereby declare and state as follows:

1. Unless otherwise stated, I have personal knowledge of the facts stated herein and if called to testify, I could and would be able to testify to the statements made herein.

2. I am Senior Director of Video Systems in the Advanced Technology Group of Time Warner Cable Inc. I oversee product development and testing with respect to a variety of the components of Time Warner Cable Inc.'s cable systems, including core control systems, video-on-demand servers, set-top boxes and video-on-demand applications. I have worked in the interactive cable and video-on-demand industry for more than 15 years, and joined Time Warner Cable Inc. in 2002.

3. Time Warner Cable Inc. (hereinafter "TWC") operates cable systems in a number of markets throughout the United States. TWC offers a variety of services through its cable broadcast systems, including cable television, On-Demand, and Internet-access services.

4. I have personal knowledge of the design and operation TWC's cable systems, including the set-top boxes used by customers to receive content, including video-on-demand content. I work at TWC's facility in Charlotte, North Carolina, where TWC houses its corporate research and development facilities for cable delivery systems. Most of the documents related to the general system design of TWC's video-on-demand service are located in North Carolina. Documents relating to the deployed implementation of video-on-demand systems are located both in Charlotte and at the relevant local system facility. Likewise, most of the TWC engineers who worked on the general system design of TWC's video-on-demand systems are located in North Carolina.

The engineers with knowledge of specific implementations are located both in North Carolina and at the relevant local system facility.

5. Below I will briefly describe TWC's cable infrastructure and how video-on-demand is incorporated into TWC's broadcast cable system.

6. TWC's cable system has several parts, including headends, hubs, nodes, fiber optic cables, coaxial cables and set-top boxes. A headend includes broadcast equipment and software that reside at a TWC physical site. The headends are connected to hubs through fiber optic cables. The hubs in turn are connected to nodes, also via fiber optic cables. At the node, the broadcast signal originating from the headend is converted from an optical signal to an electrical signal that is carried on coaxial cables into customers' homes. Although the numbers vary widely in different implementations, in an "average" or "model" implementation, a hub facility serves approximately 20,000 homes, and 40 nodes are usually served from a hub. Each node serves approximately 500 homes.

7. Set-top boxes in the homes of customers are connected to the node by a coaxial cable. The set-top box is the customer's point of contact with the TWC system. It receives analog and digital broadcast services, including video-on-demand, and provides the mechanism for two-way interaction with the video servers that contain the video-on-demand programs. It consists of a hardware platform (the physical set-top box and its remote control), and software including an operating system and a user interface.

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**REDACTED**

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**REDACTED**

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**REDACTED**

12.

**REDACTED**

13.

**REDACTED**

14. The MPEG-2 Transport Stream format is a standard format used in digital broadcast applications over cable systems. It is decoded and processed by the set-top box and the resulting output is sent to the customer's television for viewing.

15.

**REDACTED**

16.

**REDACTED**

17. None of TWC's set-top boxes allow for storage of video-on-demand programs. The majority of TWC set-top boxes do not contain a hard drive or similar

device and cannot store video programs. Instead, a video-on-demand program is transmitted and processed in real time, as described above.

18. Those TWC set-top boxes that do contain a hard drive are those that contain a built-in Digital Video Recorder, or "DVR." A DVR set-top box has the ability to record and store television programs and contains a hard drive for storing recorded programs. However, the software on TWC's DVR set-top boxes is designed to prevent customers from recording video-on-demand programs. Thus, while scheduled cable television programs can be recorded using the DVR feature, video-on-demand programs cannot be recorded.

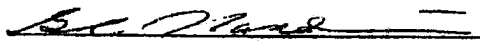
19. To provide VCR-like capabilities, TWC's video-on-demand service allows the customer to "pause," "fast-forward," and "rewind" a video-on-demand program using the remote control. To accomplish this, the set-top box receives a particular command from the remote control and transmits that command back to the video server at the headend or hub. The video server then performs the desired function (i.e., pause, fast-forward, rewind) and the output of the video server is transmitted, received, and decoded in real time, requiring no storage of the video program at the set-top box.

20. I have reviewed the document attached to this declaration as Exhibit A, entitled "USA Video Interactive Corporation's Patent No. 5,130,792 Additional Technical Information." Page 2 of that document states that "the following would be excluded from necessitating a license under the Patent: ... Video-streaming originating from a source located at a central facility, to a receiver with no intermediate downloads, progressive streaming functionality, or storage of video data on the destination device."

21. TWC's video-on-demand system does not facilitate or allow intermediate downloads or progressive streaming functionality. Furthermore, as discussed above, TWC's set-top boxes do not permit storage of video-on-demand programs.

I declare under penalty of perjury that to the best of my knowledge, information and belief, the foregoing statements are true and correct.

Executed this 8 day of September, 2006 in SAN RAFAEL, CALIFORNIA

  
Glen Hardin



**CERTIFICATE OF SERVICE**

I hereby certify that on the 14<sup>th</sup> day of September, 2006, the attached **REDACTED**  
**PUBLIC VERSION OF DECLARATION OF GLEN HARDIN IN OPPOSITION TO USA**  
**VIDEO TECHNOLOGY CORPORATION'S MOTION TO DISMISS, STAY OR**  
**TRANSFER** was served upon the below-named counsel of record at the addresses and in the  
manner indicated:

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VIA FEDERAL EXPRESS

*/s/ John G. Day*

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John G. Day